IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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R.S.A. No.4789 of 2004
Date of Decision:24.08.2007

Avinash Rani **.....Appellant**

Vs.

Chanan Ram and others **.....Respondents**

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Avnish Mittal, Advocate for the appellant.
Mr. R.S.Chauhan, Advocate for the respondents.

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This is plaintiff's second appeal against concurrent findings of fact by both the Courts below wherein the suit filed by the appellant/ plaintiff for permanent injunction restraining the respondents/ defendants from interfering in the peaceful possession of the appellant on the area in dispute, was dismissed.

The claim made by the appellant/ plaintiff, in the plaint filed by her, was that she is owner in possession of the suit property. However, she could not produce any evidence on record to substantiate her claim even though she stated that there was proof in her possession. As far as possession of the property in dispute is concerned, the only claim made by the appellant- plaintiff was that she had been placing cow dung and dung cakes etc. on the property in dispute and she had even constructed the boundary wall also. As regards boundary wall, no proof except the bald statement of the plaintiff/ appellant was there. As far as placing of the cow dung and dung cakes on the area in dispute is concerned, as per the revenue record, it was found that the land was mentioned as Gair Mumkin Khad and in the column of ownership it was mentioned as Mushtarka Malkan Hassab Rasad Rakba Khewat and it further came on record in evidence that the area in question was being used by the residents of the village for common purposes. No one could claim to be in exclusive possession of an area of land merely because one had put the cow dung and dung cakes in that area which is meant for common use of the residents of the village. Accordingly, I do not find any merit in the present appeal.

Dismissed.

August 24, 2007 **(RAJESH BINDAL)**
renu **JUDGE**